

Santa Clara Superior Court, Case No. CV 778635, *Silvaco Data Systems v. Antonau et al*, Case No. 1-00-CV-79016; *Circuit Semantics Inc. v. Silvaco Data Systems and Ivan Pesic*, AAA Case No. 74 Y 117 01071 03 LMT; *Silvaco Data Systems v. Circuit Semantics, Inc.*, Case No. 1-04-017359.



VII. COMPENSATION AND MATERIALS REVIEWED.

14. I am being compensated in this matter at the rate of \$300 per hour with the exception of travel time for which my compensation is reduced by fifty percent. My compensation is not dependent upon the outcome of this case. I considered the materials contained in PCT-B MW 0001-0470, 0473-0548, 0550-0561, 0565-2490, and materials specifically referenced in this report to the extent not included in the numbered materials.

VIII. SUMMARY OF MY ASSIGNMENT.

15. I was asked to compare the Berry Freight Control System, registered with the Copyright Office by Wayne Berry on October 19th, 1999, and referenced in the Complaint (the “Berry Database”), with various versions of software used by the Defendants after April 1, 2003. In particular, I was asked to determine if, in my opinion as an expert in the field of database design, there was any evidence of copyright infringement. I was asked to review two versions of the software used by Defendants: the databases used by the Defendants after April, 2003, through approximately June 9, 2003 (which I will refer to as the “Dual Databases”), and the system used by Defendants after June 9, 2003 (the “2003 Excel Spreadsheets”).

16. I was also asked to analyze and comment on Berry’s claims of misappropriation of trade secrets, as described in paragraphs 96-112 of the Complaint. Finally, I was asked to comment on Berry’s claims of spoliation of evidence.

IX. SUMMARY OF OPINIONS.

17. I understand that the Plaintiff alleges that the Dual Databases are an unlicensed derivative work and therefore infringe his copyright. I examined these allegedly infringing Dual Databases and determined that one is practically identical to the licensed software. In particular I found 1334 out of 1341 fields (99.5%) to be identical. Further, the few different fields add so little to the mix of protectable material that it is my opinion that the first of the Dual Databases